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January 23, 2023

VIA ECF

Magistrate Judge Therese Wiley Dancks
U.S. District Court
100 S. Clinton Street
Syracuse, NY 13261

Re: *Young America's Foundation et al v. Stenger et al*, 3:20-cv-822-LEK-TWD

Dear Judge Dancks,

Pursuant to the Court's January 13, 2023 Order ("Order"), ECF No. 205, Plaintiffs respectfully submit this status report regarding the progress of the litigation.

I. Plaintiffs are diligently scheduling depositions.

Since Defendants' status report at ECF No. 204, the following depositions have been taken:

- Raj Kannappan (Plaintiff Young America's Foundation) on January 19, 2023.

The following depositions have been scheduled:

- Dan Croce and Dan Robababo (Defendant Student Association) for January 26, 2023;¹

¹ Earlier today at ECF No. 206, outgoing counsel for Defendant Student Association requested the rescheduling of this deposition. While Defendant Student Association is entitled to the counsel of

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- Matthew Johnson (Defendant Student Association) for January 27, 2023;²
- Lacey Kestecher (Plaintiff College Republicans) for February 13, 2023;
- Dr. Arthur Laffer (non-party witness) for February 14, 2023;
- Ryan Yarosh (Binghamton University employee) for February 17, 2023;
- Timothy Faughnan (Binghamton University employee) for February 17, 2023;
- Brian Rose (Defendant) for February 22, 2023;
- Harvey Stenger (Defendant) for February 24, 2023;
- Reign Bey (Plaintiff College Republicans) for March 3, 2023;
- Logan Blakeslee (Plaintiff College Republicans) for March 10, 2023;
- Anthony J. Raganella (Plaintiff expert), originally scheduled for February 9, rescheduled for March 29, 2023 with consent of counsel.

Plaintiffs' counsel is in contact with the following individuals. Plaintiffs' counsel voluntarily disclosed these individuals (with contact information) to Defendants in May 2022 but State Defendants only requested for their depositions, without formal notice, on January 12, 2023. Plaintiffs are nevertheless in the process of ascertaining their availability:

- Kyle Nelson (Plaintiff College Republicans);
- Spencer Haynes (Plaintiff College Republicans).

Plaintiffs' counsel is working with the College Republicans' leadership to obtain the contact information for the following individuals, who State Defendants also just requested for deposition, without formal notice, on January 12, 2023:

- Preston Scagnelli;

its choosing, the decision to switch counsel today, two-and-a-half years into the case and on the eve of these depositions, is gamesmanship that this Court should see through and require the deposition to proceed as scheduled.

² *Id.*

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- Joe Babadina;
- Brian Murray.

II. Defendants continue to frustrate Plaintiffs' efforts to obtain discovery in a timely and comprehensive manner.

State Defendants: Plaintiffs issued a Request for Production on November 21, 2022, but State Defendants have still not made any meaningful production of documents more than two months since that request. Having received no production on December 21, 2022, Plaintiffs repeated their request. State Defendants responded on December 23, 2022 with a single document and an acknowledgement that the Plaintiffs' requests had been communicated to the client. State Defendants have not produced any additional documents.

Interrogatories: Plaintiffs responded to Interrogatories directed to the Young America's Foundation and the Binghamton University College Republicans on January 17, 2023, as ordered.

III. Plaintiff Lizak

Plaintiff Jon Lizak will be later today moving this Court in his individual capacity for dismissal of his personal claims without prejudice pursuant to Fed. R. Civ. P. 41(a)(2). Mr. Lizak graduated from Binghamton University in May 2022, and, accordingly, has no continuing ties to either the University or the College Republicans. In fact, the College Republicans are now led by a new president and vice president, Reign Bey and Logan Blakeslee, respectively, who are both directing this litigation. Given Mr. Lizak's graduation from the University, Mr. Lizak does not believe that continuing to litigate past the pleading stage solely to resolve his individual claims would either benefit him or the College Republicans. Additionally, State Defendants will not agree to a stipulation of dismissal of Mr. Lizak's claims.

Plaintiff Lizak has not responded to State Defendants' Interrogatories, nor has he consented to a deposition. Plaintiffs' counsel has, however, provided his last known address to State Defendants' counsel.

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IV. Conclusion

Plaintiffs are still diligently pursuing discovery and hope all parties can attend to their discovery obligations in a timely manner, without burdening the Court.

Respectfully Submitted,

/s/ Andrew C. Hruska

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